



Department of Planning, Building and Code Enforcement

STEPHEN M. HAASE, AICP, DIRECTOR

**PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

Project File Number, Description, and Location

PDC04-040, Planned Development rezoning and construction of up to 19 single-family detached residences on a 1.75-acre site located south side of East San Antonio Street at South 34th Street (Thai Pham, Hang Hoang, Robert Ross and Janet Rausch, Owners, DKB Homes, Developer). Council District: 5

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **October 13, 2004**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **Friday, September 24, 2004** and ends on **Wednesday, October 13, 2004**.

A public hearing on the project described above is tentatively scheduled for October 13, 2004 at 6:00 p.m. in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and the East San Jose Carnegie Library 1102 East Santa Clara Street San Jose, CA 95156, and online at <http://www.ci.san-jose.ca.us/planning/sjplan/eir/mnd2004.htm>. Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Deanna Chow** at (408) 277-4576.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: September 23, 2004

Deputy



Scale: 1"=300'

Created on 04/26/04

File No: PDC04-040

District: 05

Quad No.: 68

DRAFT
MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: PDC04-040

PROJECT FILE NUMBER: PDC04-040

PROJECT DESCRIPTION: Planned Development rezoning and construction of up to 19 single-family detached residences on a 1.75-acre site.

PROJECT LOCATION & ASSESSORS PARCEL NO.: South side of East San Antonio Street at South 34th Street; 481-47-029 and 481-47-032

COUNCIL DISTRICT: 5

NAME OF APPLICANT:

DKB Homes
Charles Walton

MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:

255 W. Julian Street, Ste. 200
San Jose, CA 95110
(408) 491-7740

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

Air Quality

1. Water all active construction areas at least twice daily or as often as needed to control dust emissions.
2. Cover all trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.

3. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
4. Sweep daily or as often as needed with water sweepers all paved access roads, parking areas and staging areas at construction sites to control dust.
5. Sweep public streets daily, or as often as needed, with water sweepers, to keep streets free of visible soil material.
6. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
7. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) sufficient to prevent visible airborne dust.
8. Limit traffic speeds on unpaved roads to 15 mph.
9. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
10. Replant vegetation in disturbed areas as quickly as possible.

Biological Resources

All non-orchard trees that are to be removed shall be replaced at the following ratios:

- Each tree less than 12" in diameter to be removed = one 15 gallon tree
- Each tree 12" to 18" diameter to be removed = two 24" box trees
- Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit has been approved for the removal of such trees. Each tree greater than 18" diameter to be removed = four 24" box trees

The species and exact number of trees to be planted on the site will be determined in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement. In the event the developed portion of the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented at the permit stage:

- An alternative site(s) will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement.
- A donation of \$300 per mitigation tree to San Jose Beautiful or Our City Forest for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting will be provided to the Director of Planning, Building, and Code Enforcement prior to issuance of Planned Development permit.

Hydrology and Water Quality

1. The proposed development will comply with the NPDES permit issued to the City of San Jose and other co-permittees of the SCVURPPP, and will include measures to control pollutants discharged to the storm water system. Future activities that require a permit from the City of San Jose will need to be evaluated for BMP's including, but not limited to the following: storm water retention or detention structures; use of landscaped-based storm water treatment measures, such as biofilters and vegetated swales to manage runoff from the site; minimization of impervious surfaces and increased use of permeable pavement; if inlet filters are used, a maintenance program to maintain the functional integrity of the systems; damp sweeping of streets and on site parking areas; routine storm drain cleaning, and; covering of dumpsters and materials handling areas
2. Prior to the commencement of any grading, clearing, or excavation the project developer shall comply with the City of San Jose's Municipal Code and the State Water Resources Control Board (SWRCB) NPDES General Construction Activities Permit as follows: The applicant shall develop, implement, and maintain a SWPPP. The SWPPP must specifically address BMP's that will be included in the project to the maximum extent practicable, for both the construction and post construction periods. The SWPPP would include erosion and sediment control measures, waste disposal controls. The developer shall maintain a copy of the most current SWPPP on site

and shall provide a copy to any City representative or inspector on demand; the developer shall file a Notice of Intent (NOI) to be covered by the NPDES General Permit for Construction Activity with the SWRCB 30 days prior to any construction on the site.

3. In addition, the SWPPP must include a description of erosion control practices, which may include BMP's as specified in the California Storm Water Best Management Practice Handbook for reducing impacts on the City's storm drainage system from construction activities.
4. The project will conform to the City's Grading Ordinance during construction. Prior to issuance of a grading permit, the developer shall submit copies of the NOI and Erosion Control Plan to the City Project Engineer at the Department of Public Works.

Hazards and Hazardous Materials

Per Engeo's report, the localized areas of elevated dieldren and lead impacted soils can be mitigated during the grading/site preparation work. The impacted soil should be sequestered under private roadways or common landscape areas. The applicant shall submit detailed grading plans to the City's Environmental Program Manager showing that the contaminated soils are sequestered under private roadways or common landscape areas to the satisfaction of the City's Environmental Program Manager prior to the issuance of a grading permit.

Noise

Lots 1 and 2 (lots closest to San Antonio Street) shall have forced air ventilation systems to allow the windows to remain closed.

A six-foot noise barrier should be built around the outdoor areas for Lots 1 and 2 to reduce the exterior noise levels in these areas to meet the 60 dBA "satisfactory" standard. To be effective, the proposed barrier must be constructed solidly over the face and at the base of the barrier. Suitable materials for barrier construction should have a minimum surface weight of 3lbs./sq. ft. (such as one-inch thick wood, masonry block, concrete or metal).

Prior to issuance of occupancy permits, building plans for all units will be checked by a qualified acoustical consultant to ensure that noise levels are attenuated sufficiently.

Construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.

The contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poor maintained engines or other components.

Staging areas shall be located a minimum of 200 feet from noise sensitive receptors, such as residential uses.

Weekend construction hours, including staging of vehicles, equipment and construction materials, shall be limited to Saturdays between the hours of 9 a.m. to 5 p.m. Permitted work activities shall be conducted exclusively within the interior of enclosed building structures provided that such activities are inaudible to existing adjacent residential uses. Exterior generators, water pumps, compressors and idling trucks are not permitted. The developer shall be responsible for educating all contractors and subcontractors of said construction restrictions. Rules and regulation pertaining to all construction activities and limitations identified in this permit, along with the name and telephone number of a developer appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site. The Director of Planning, at his discretion,

may rescind provisions to allow extended hours of construction activities on weekends upon written notice to the developer.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **October 13, 2004**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$100 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: September 23, 2004

Deputy

Adopted on: _____

Deputy

PUBLIC HEARING NOTICE

The Planning Commission and the City Council of the City of San José will consider a change in **ZONING** at a public hearing in accordance with Title 20 of the San José Municipal Code on:

Planning Commission Hearing

Wednesday, October 13, 2004

6:00 p.m.

City Council Chambers, Room 205

City Hall

801 North First Street

San Jose, CA 95110

City Council Hearing

Tuesday, November 09, 2004

7:00 p.m.

City Council Chambers, Room 205

City Hall

801 North First Street

San Jose, CA 95110

The project being considered is:

PDC04-040. Planned Development Rezoning from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 19 single-family detached residences on a 1.75 gross acre site, located on the south side of East San Antonio Street, at South 34th Street (1650 E SAN ANTONIO ST) (Pham Thinh Et Al, Robert Ross and Janet Rausch, Owners; DKB Homes Mr. Charles Walton, Developer). Council District 5. SNI: Gateway East. CEQA: Mitigated Negative Declaration.

Reports, drawings, and documents for this project are on file and available for review, and a permit with recommendations will be available for your review during the week of the public hearing from **9:00 a.m. to 5:00 p.m.**, Monday, Wednesday, Fridays, and from **10:00 a.m. to 5:00 p.m.** Tuesday and Thursdays at:

Department of Planning, Building and Code Enforcement

801 North First Street, Room 400

San José, CA 95110


(408) 277-4576

www.ci-san-jose.ca.us/planning/sjplan/

You are welcome to attend and to speak on this issue. To arrange an accommodation under the Americans with Disabilities Act to participate in this meeting, please call (408) 277-4576 (Voice) at least 48 hours before the meeting.

** If you choose to challenge this land use decision in court, you may be limited to only those issues you, or someone else, raised and discussed at the public hearing or in written correspondence delivered to the City at or prior to the public hearing.*

Comments and questions are welcome and should be referred to the **Project Manager, Deanna Chow**, at the e-mail address: deanna.chow@sanjoseca.gov in the Department of Planning, Building and Code Enforcement. Please refer to the above file number for further information on this project.



Joseph Horwedel,
Deputy Director, Plan Implementation Division

Dated: **September 23, 2004**

Lee Price, CMC
City Clerk

Noticing Radius: **500 ft**

SECTION 20.120.400 OF THE SAN JOSE MUNICIPAL CODE
ESTABLISHES A FORMAL PROTEST PROCEDURE FOR REZONINGS
AND PREZONINGS BEFORE THE CITY COUNCIL

If you are the owner of property to be rezoned, or if you own property adjacent to or across the street from a proposed rezoning or prezonning, you may file an Official Protest. Such protest must be made on a form provided by the Director of Planning and must be filed in the Department of Planning, Building and Code Enforcement **by 5:00 p.m.** on the fifth day before the City Council opens its public hearing on the proposal (that is, the Thursday before a Tuesday hearing). A separate protest petition shall be filed for each separate protesting site. Contact the Department of Planning, Building and Code Enforcement if you have any questions.